

North Pacific Fishery Management Council and Alaska Board of Fisheries
Interim Joint Protocol Committee Meeting
August 30, 2005
Hawthorne Suites Hotel
Anchorage, Alaska

AGENDA

August 30 Tuesday 10:30 AM – 5:00 PM

1. Opening remarks, approve agenda, approve minutes from June 14-15 and July 14 meetings
2. Review State of Alaska proposal for a modified Jude Island State water pollock fishery
3. Review NMFS response to the State's Jude Island pollock fishery proposal
4. Review other State water pollock fishery requests
 - Modified modified Jude Island proposal
 - Modified Aleutian Islands proposal
5. Public Comment
6. Committee Recommendations to BOF and Council
7. Closing remarks/adjourn

Interim Joint Protocol Committee, North Pacific Fishery Management
Council and Alaska Board of Fisheries

Meeting on Board of Fisheries Proposals for Pollock Trawl Fisheries in State Waters
June 14-15, 2005

MINUTES

1. The Committee convened in Centennial Hall, Juneau, at 1:00 PM June 14, 2005. This Committee meeting was chaired by Art Nelson, Chairman of the Alaska Board of Fisheries. The Committee approved the agenda.
2. Mr. Nelson asked for approval of the minutes from the last meeting (May 25). One correction was noted on p. 3, 1st paragraph, 3rd to last line; the minutes will be changes to read "...trade-offs cannot be considered for proposed changes in current SSL regulations." With that change, the minutes were approved (later in meeting).
3. Bill Wilson oriented the Committee on the contents of briefing books and provided and some additional materials (maps, tables, and other documents) that are part of the briefing package for this meeting. These briefing materials are not appended to these minutes as they are lengthy – but they are available from the Board of Fisheries or the North Pacific Fishery Management Council offices.

Review of State vs. Federal Aleutian Islands Pollock Fishery Issues

1. Chris McNulty, Office of NOAA GC, reviewed a legal interpretation of Amendment 82 as it would apply to a State fishery in State waters in the Aleutian Islands where all pollock TAC is allocated to the Aleut Corporation – and whether the Federal TAC would be the “source” of pollock quota for that State fishery. Mr. McNulty reported the issue is in Section 803 of the 2004 Omnibus Appropriations Act where the allocation is for the “directed pollock fishery in the AI subarea of the U.S. EEZ”. Mr. McNulty noted that a State pollock fishery in State waters likely would not be considered a “directed pollock fishery in the U.S. EEZ” and therefore any quota or harvests in State waters would not come off the Federal TAC. Madsen questioned the “parallel” fishery issue – would the State fishery be considered a parallel fishery and thus fall under any Federal regulations. Not likely, but this may merit further legal research. Mr. McNulty noted that there is nothing in current regulations that provides for allocating TAC in the AI to the State for a State pollock trawl fishery.
2. Ms. Madsen also noted that Amendment 82 and its implementing regulations have an ABC-formula for determining the TAC allocated to the Aleut Corp, and there is no provision for setting aside any TAC for a State pollock harvest off the Federal TAC.
3. Ms. Salveson questioned the possibility that, if a State pollock fishery in the AI is started, could that be considered reducing the available pollock in the AI region and therefore would have to come off the Federal TAC. Mr. McNulty noted that a State pollock fishery in the AI would be a separate fishery under a State GHF or

some other limit and would not affect the Federal pollock TAC. A State pollock fishery would be under a separate management system with its own quota, but not a parallel fishery.....it would be a State water fishery. It would not be prosecuted like the current P. cod fishery where there is a parallel fishery in State waters and a State water fishery, both off the Federal TAC.

4. Denby Lloyd, ADF&G, stated that the State views the AI pollock fishery as a parallel fishery with the harvest accounted for under the Federal TAC and the seasons, etc. mirroring the Federal AI pollock fishery. Ms. Madsen noted that Amendment 82 allocated all TAC to the Aleut Corporation and thus TAC is not available to a State fishery. Discussion continued about whether a State fishery could/could not be considered a parallel fishery with the TAC coming off the Federal TAC. Mr. McNulty reiterated that a State water pollock fishery in the AI region would not be a directed pollock fishery and thus would not come under the intent of Section 803 and Amendment 82.
5. Mr. Lloyd suggested that the State fishery could be managed to mirror the Federal fishery process but with the TAC outside the Federal TAC; Mr. McNulty indicated this would be possible. Steven Doherty, State AG Office, agreed and noted that the State would have to comply with the constitutional mandate that the AI State pollock fishery would be prosecuted under a sustained yield principle.
6. Dave Benson asked if our hands are tied in providing TAC for a State fishery. Ms. Salvesson indicated yes under current law, and an FMP amendment likely would be required to do so.

Review of State Board of Fisheries Proposals

1. Mr. Lloyd reviewed Proposal 455 as modified, and presented the goal statement for each of the three proposals. Erika Phillips, NMFS AK Region, reviewed data on the percentages of SSL Critical Habitat that would be involved in each proposal if opened as currently presented.
2. Mr. Benson asked about State regulations on trawling in State waters – i.e. where pelagic or nonpelagic trawling is prohibited or allowed and how the current State gear restrictions apply to the three BOF proposals. Lloyd provided this information later in the meeting.
3. Mr. Lloyd reviewed BOF document RC 30 which contains ADF&G staff comments on the three BOF proposals in a previous version of Proposal 455. RC 30 is not applicable to the substitute motion Proposal 455.
4. Mr. Benson asked if an adaptive management experiment might be able to be included in one or more of the proposals since the National Research Council previously suggested an experiment with closed/open areas to test fishery effects on SSLs. Ms. Madsen noted that the Fishery Interaction Team with NMFS recently reported that the closures at Cape Sarichef and in Chiniak Trough no longer are in force. But continuation of these studies might be a worthy subject of future discussions of the proposed State water pollock fishery proposals. Mr. Nelson noted that the BOF likely would not have the authority to require such studies, but this would be useful to discuss further in a future Committee meeting.

5. Mr. Wilson reviewed a proposal submitted by the Aleut Enterprise Corporation to the Council's Steller Sea Lion Mitigation Committee (SSLMC) in 2004. He also included in the briefing notebook a NMFS response to this proposal, and a subsequent revised proposal submitted by the AEC. The AEC sought a small opening in SSL Critical Habitat in the AI region for a pollock fishery – pursuant to Amendment 82 and a desire to fish with small vessels closer to Adak. The Council did not further consider that proposal because it would likely lead to reinitiation of formal Section 7 consultation under the Endangered Species Act which the Council at that time did not want to trigger.

Fishery Data Review

1. Mary Furuness, NMFS Alaska Region, presented data from the previous AI pollock fishery (1996-1998) on pollock harvest and the bycatch of nontarget species in that fishery. Ms. Madsen requested data on PSC harvests in that fishery and Mr. Benson requested a breakout of the data by shoreside versus catcher-processor deliveries; those data were provided to the Committee later in the meeting. Ms. Furuness also reported the 2005 pollock harvest data in the AI under Amendment 82; very small amounts of pollock were harvested in 2005; the remaining TAC is set to be rolled back to the Bering Sea pollock fishery for the B season. Ms. Furuness also presented data on pollock bycatch in other directed fisheries in the AI region, 1996-1998, and data on the Pacific cod fishery. Ms. Phillips provided data on pollock harvests in the AI region in the 0-3, 3-10, 10-20, and outside 20 nm zones around SSL haulouts and rookeries in all three proposal areas.
2. Mr. Wilson reported data on sizes of vessels that participated in the historic (1996-1998) AI pollock fishery; these data were provided by United Catcher Boats.

Steller Sea Lion Data Review

1. Kaja Brix, Chief of Protected Resources Division, NMFS Alaska Region, provided an overview of data available on SSLs in the AI region. This included trend site counts and trends in population abundance in the Western SSL Distinct Population Segment (DPS) including pup vs. nonpup counts. Some discussion ensued on trends in various regions of the Aleutian Islands and how SSLs are counted (on land versus photography). Ms. Brix also reported results from SSL diet studies based on scat sampling and the relative importance of pollock, Pacific cod, and Atka mackerel in summer vs. winter scat samples. Lowell Fritz, NMFS, Alaska Fisheries Science Center, Seattle, reviewed the various techniques used to survey and count SSLs. Mr. Fritz reported that NMFS will conduct a range-wide photogrammetric survey of SSLs in 2005.
2. SSL telemetry data also were reviewed by Ms. Brix and Mr. Fritz. Discussion of these data included a desire to see the dive filtered SSL locations in the 0-3 nm and the 3-10 nm zones (currently lumped into a 0-10 nm zone).

3. Chris Oliver, Executive Director of the Council, asked about a breakout of telemetry data into 0-3 and 3-10 nm zones; Mr. Lloyd also suggested the Committee review these data to more clearly see locations of SSLs relative to State waters. Discussion continued on locations of SSLs relative to rookery and haulout sites vs. any point of land along a shoreline.
4. Ms. Brix continued with a review of pollock catch by zone, a review of data on SSL prey concentration by zone presented in the 2001 BiOp, and a review of the zonal analysis and importance of the 0-3 nm zone to SSLs presented in the 2001 BiOp and 2003 BiOp Supplement. Pollock biomass trends from the most recent AI pollock stock assessment were reviewed and Ms. Brix pointed out the current uncertainty in the pollock stock structure in the AI region.
5. Ms. Brix and Mr. Fritz reviewed estimates of forage available to SSLs in the AI region vs. the Bering Sea, noting that prey biomass is likely much larger per unit of area in the Bering Sea (~ 446 x consumption potential), suggesting lower densities of prey in the AI area (~11 x consumption potential).

Fishery Data Review

1. Mr. Wilson presented data developed by Jessica Gharrett, NMFS Alaska Region, on the Federal limited license program and the numbers of permits (LLPs) currently eligible to conduct directed fishing for groundfish in Federal waters in the three BOF proposal regions (LLPs endorsed for trawl gear, by area).
2. Ms. Furuness provided a review of how trip limits are used as a regulatory measure to slow pollock fishing in some areas. Discussion continued on the differences between the Federal regulations and how the State uses trip limits in managing fishing rates. Salveson explained that Federal trip limits were imposed in the GOA to help provide more competitive advantage for smaller vessels fishing for groundfish, and how these measures also are part of the current SSL protection measures. Ms. Salveson also noted that the State proposal to further tighten trip limits in the Western GOA proposal could provide further benefit to SSLs.

Section 7 Consultation Issues

1. Mr. McNulty reviewed the guidelines NMFS uses to determine what kind of action would trigger either a formal or an informal consultation. A consultation can be conducted informally if a proposed action “is not likely to adversely affect” a listed threatened or endangered species; that is, the effects would be expected to be discountable, or insignificant, or completely beneficial. These criteria come from the U.S. Fish & Wildlife Service/NMFS Endangered Species Consultation Handbook.
2. Ms. Madsen reviewed the history of the Council’s previous SSL consultations, and the Council’s concerns over taking any action that might trigger the need for formal consultation. A primary concern is that in a formal consultation process, all current fishery management measures are open to reconsideration.

3. Ms. Madsen questioned how new information on SSLs could trigger a new consultation. Ms. Brix noted that new information by itself could indeed trigger that process. Ms. Brix noted that NMFS considers two situations when considering formal consultation: whether there is a sufficient body of new information relative to an action, or there has been a change in the original action that was previously consulted on. She noted that, if a formal consultation is initiated, and the action agency chooses to stop pursuing the proposed action, then that consultation would end. But if new information triggers a formal consultation, that process would likely continue until concluded.
4. Ms. Madsen reported that the Council intends to discuss the possibility of reinitiating consultations on SSLs and groundfish fisheries during the October 2005 meeting. The review would include new information on SSLs, how the various fisheries are prosecuted now vs. the late 90s, FMP level vs. project level consultation, schedules, etc.
5. Ms. Brix stated that NMFS will want to have the SSL Recovery Team's recovery plan before consulting, as that plan will contain recommended SSL recovery criteria and a recovery plan which would help guide the agency's plans for continuing the recovery process. Ms. Madsen questioned the timing of this report and the probable need to reinitiate consultation soon.

BOF Proposal Discussion

1. Mr. Nelson reviewed the three BOF proposals and asked whether NMFS could possibly consult informally on any one, particularly the Central GOA proposal. Brix reviewed the process NMFS would consider when making such a review. As currently presented, each BOF proposal would result in a fishery for SSL prey (pollock) within the 0-3 nm zone which is of most importance to SSL foraging, harvests would occur during winter which is considered a sensitive time period for foraging pups and lactating females, and the fishery would be in an area (State waters) not previously considered in the last consultation and thus would constitute a change in the action. Considering these issues, then, the agency would likely consider the action as crossing the threshold of "not likely to adversely affect"; that is, the effect of the proposed fishery in State waters likely could not be considered "discountable, or insignificant, or completely beneficial" to SSLs. Also the State action would likely be considered an action not previously considered. Thus, the agency would likely require a formal consultation.
2. If the State were to pursue further one or more of these proposals, Ms. Brix suggested that the proposal(s) be fleshed out with more details on proposed pollock quotas, specific fishing times and areas, pollock removal rates, vessel size and/or trip limit restrictions, etc. and then NMFS would review the proposal and respond.
3. Mr. Nelson summarized that it is not likely that any one of the BOF proposals could proceed without a formal consultation process.

4. The Committee discussed the Central GOA proposal, noting that a fishery occurred in this area previously under a special ADF&G Commissioner's Permit. The pollock harvested were delivered to a processing plant in Seward.
5. Ms. Brix reviewed the ESA Section 10 incidental take issues, and how incidental take permits are processed. The Committee discussed differences between incidental take authorization under an existing BiOp vs. an incidental take permit provided under Section 10. Additional information on this issue was requested for the next Committee's meeting.
6. Mr. Benson asked if the SSL recovery plan will include all available data on SSLs, especially new information from research conducted in recent years. Ms. Brix and Mr. Fritz noted that the draft recovery plan does contain a review of new information on SSLs.
7. The Committee also discussed whether including more stringent trip limits or imposing small vessel restrictions would be considered a mitigating measure reducing the impact of pollock fishing in State waters. Ms. Madsen recommended that more details be provided on each proposal.
8. Ms. Madsen restated that the Council has consistently avoided proposing any action that could trigger a formal consultation. Senator Stevens' floor language on Section 803 also specifically charged the Council to develop an Aleut Corp pollock fishery in the AI region without triggering formal consultation. Madsen noted that although the current BOF proposals likely will trigger a formal consultation, the State could nonetheless open one or more area on its own and then the Council and NMFS would have to react. This ultimately could include some kind of compensatory action in the Federal fisheries, although it is uncertain how that consultation process would play out. Ms. Madsen felt that this Committee should take another look at these proposals in the July meeting, re-look at the Aleut Corp's 2004 proposal to the SSLMC, and fine tune the proposals. Ms. Madsen noted that NMFS has been consistent in their message on the consultation process, and it is still probable that after the Committee's further work at another meeting the result might be the same.

Public Comment

1. Sandra Moller with the Aleut Corp testified to the need for areas to fish for pollock in the AI region that are closer to Adak and safe for small vessel operations. She suggested that perhaps this Committee could re-evaluate the Aleut Corp's 2004 proposal to the SSLMC as an option for the AI region. Ms. Moller stated that the Aleut Corp has three goals for a fishery: that fishery must be able to be prosecuted safely, in areas of historic pollock harvest, and with small vessels to comply with existing law (Amendment 82).
2. Dave Fraser, a groundfish fisherman in the AI, reviewed the Aleut Corp's 2004 proposal to the SSLMC. He noted where the proposed areas are relative to historic pollock harvests in the area. Mr. Fraser also provided data on the depths at which pollock fishing occurs relative to the diving depths of foraging SSLs, noting that the two do not overlap and pollock fishing largely harvests pollock unavailable to foraging SSLs.

3. Clem Tillion, testifying for the Aleut Corp, noted that Atka mackerel are also important to SSLs and the AI proposal would not involve that fishery. Mr. Tillion asked the Committee to continue and not be constrained by concerns over formal consultation. Mr. Tillion believes that the State should proceed regardless of any complementary Council action.
4. Brent Paine with United Catcher Boats reviewed how the historic pollock fishery was prosecuted in the AI region and the sizes of vessels that were involved. Mr. Paine suggested that the Committee review harvest by area (zones) by vessel size, including sideboard harvest history, when evaluating the proposals.
5. Beth Stewart with the Aleutians East Borough stated the importance of the new Federal pollock fishery in the AI region for small vessels. She noted, however, that most areas close to ports are beyond the reach of small vessels to safely fish. A State water fishery could provide benefits to these fishermen. Some fishermen are planning to re-tool their vessels by increasing horsepower and other modifications to fish pollock in deep waters of the Aleutian Islands, but need assurances that fishing areas will be open to them. Ms. Stewart supports a State water fishery in the Western GOA also as the fleet in this area is primarily comprised of small vessels.

Additional Proposal Discussions

1. Mr. Nelson suggested that the Committee develop more details on some of the BOF proposals. Mel Morris, BOF member, recounted the importance of the Central GOA proposal to the economy of Seward. He stated that the processor in Seward has invested over \$ 1 million in groundfish processing equipment. Mr. Morris supports opening the Seward area pollock fishery by Commissioner's Permit.
2. Mr. Morris recommended adding the following restrictions to the Central GOA proposal: trip limits of 300,000 lbs, no tendering allowed, 100 % observer coverage, and a harvest cap of around 1500 mt.
3. The Committee discussed whether limits could be placed on the number of vessels eligible to participate in the Seward fishery; Mr. Doherty indicated that vessel participation likely could not be restricted under State law.
4. Additional measures were added to the Seward pollock fishery proposal: the fishing season would be January-March, and the pollock quota would be off the Federal TAC. Ms. Salveson noted it is uncertain if this quota could come off the Federal TAC; if so, this would have to occur through the normal October to December Council TAC setting process.
5. The Committee discussed how this fishery might operate under an incidental take permit for SSLs, the Section 7d issues, and how a Section 10 permit is acquired. The Committee recognized that this fishery would likely trigger a formal Section 7 consultation, but that that consultation process would not begin until an action has been taken. A delay in initiation of consultation could occur if the action – opening this fishery – is delayed.
6. The Committee agreed to have the State develop the Seward pollock fishery proposal in more detail and submit this to NMFS for review. Ms. Brix indicated

that the agency could make a preliminary review if they receive a revised proposal soon and report back to the Committee in July.

Next Meeting

1. The Committee agreed to meet again July 14 in Anchorage. It is likely that this would be the last meeting of this Interim Joint Protocol Committee, since it is likely that none of the BOF proposals, or other options discussed by the Committee, could be pursued without a formal consultation.
2. The Committee requested the following data/information for their July 14 meeting:
 - P. cod fishery harvest data, between 174 and 178, in State waters and Federal waters
 - Pollock catch per day inside 3 nm and outside 3 nm for the Western GOA, including catch by vessels less than or equal to 58 ft LOA
 - A revised Central GOA proposal
 - Information on Section 10 incidental take permits and incidental take statements in BiOps
 - Information on Section 7d as it might apply to a new State water pollock fishery
 - Regulatory and legal information on fishing the AI Aleut Corp pollock quota in the Bering Sea
3. The Committee noted that there are other issues of interest to the BOF and the Council, and that perhaps these could be discussed at or after the July 14 meeting. Ms. Madsen agreed to look into scheduling a Joint Protocol Committee meeting on July 15 to take up these other issues.

The meeting adjourned at 1:35 PM June 15.

Interim Joint Protocol Committee, North Pacific Fishery Management
Council and Alaska Board of Fisheries

Meeting on Board of Fisheries Proposals for Pollock Trawl Fisheries in State Waters
July 14, 2005

MINUTES

1. The Committee convened in the Anchorage Hilton Hotel, July 14, 2005 at 8:30 AM. This Committee meeting was chaired by Stephanie Madsen, Chairman of the North Pacific Fishery Management Council. Committee members present were Ms Madsen, Art Nelson, Mel Morris, Ed Dersham, Dave Benson, and Sue Salveson. The Committee approved the agenda.
2. Approval of the minutes of this Committee's June 14-15 meeting was postponed to allow time for Committee members to review the minutes.
3. Bill Wilson oriented the Committee on the contents of briefing books and provided some additional handouts. These briefing materials are not appended to these minutes as they are lengthy – but they are available from the Board of Fisheries or the North Pacific Fishery Management Council offices.

Review of Data Requested by the Committee

1. Shane Capron, NMFS Office of Protected Resources, reviewed data on Steller sea lion (SSL) distribution relative to shoreline and haulout and rookery locations based on dive filtered telemetry (juvenile SSLs). Mr Capron noted that the analysis provided indicated that, generally, SSLs tend to concentrate both near shore and also near haulouts and rookeries. In both summer and winter, these data indicate 88-90 percent of the instrumented SSLs were within 3 nm of shore, although SSL movement patterns appear to be related both to distance from shore and to locations of haulouts and rookeries. These data are from the 2003 Supplement to the Biological Opinion on SSL interactions with the Pacific cod, pollock, and Atka mackerel fisheries.
2. Bill Wilson, Council staff, reviewed maps showing Pacific cod and pollock fishing locations in the Aleutian Islands. These data were from the Council's Amendment 82 Environmental Assessment document. The Committee discussed bycatch of pollock in cod fisheries.
3. Sue Salveson, NMFS Office of Sustainable Fisheries, presented data on 2003-2005 pollock harvests in the Western and Central GOA, by length of vessel (≤ 58 and > 58 ft LOA), by zone (0-3 and 3+ nm offshore), and by season. Ms Salveson also presented weekly catch rate data. The Committee discussed how these data might be interpreted relative to the BOF proposals for a pollock fishery in the 0-3 nm zone in both the WGOA and CGOA.
4. Chris McNulty, NOAA Fisheries Office of General Counsel, reviewed provisions in the Endangered Species Act on "take" prohibition, and how liability for a take is covered under Incidental Take Statements (ESA Section 7) and Incidental Take Permits (ESA Section 10). Steve Doherty, Assistant Attorney General for the

State of Alaska, provided additional clarification on the definition of “take” as interpreted by the 9th Circuit Court of Appeals relative to Critical Habitat for an ESA listed species: critical habitat modification does not constitute take unless it results in injury or mortality. Mr McNulty also reviewed how the ESA Section 7(d) prohibition of irretrievable or irreversible commitment of resources applies to an ongoing Section 7 consultation. Mr McNulty pointed out that a Federal agency involved in an ongoing consultation over a proposed action cannot allow that action to proceed if it violates either Section 7(a) (the action cannot cause jeopardy to an ESA listed species nor adverse modification of its CH) or Section 7(d) of the ESA. The Committee discussed these issues as they might apply to a BOF action that could trigger formal Section 7 consultation on the Federal P Cod, pollock, and Atka mackerel fisheries.

5. Mr McNulty responded to the Committee’s previous question whether the Aleut Corporation’s AI pollock TAC could be harvested in the Bering Sea. Section 803 of the Consolidated Appropriations Act of 2004 and the American Fisheries Act both proscribe how pollock may be allocated in the AI and Bering Sea, respectively, and that it is unlikely that a directed harvest of pollock could be allowed that is contrary to the intent of these two laws.

Review of State Board of Fisheries Proposals

1. Earl Krygier, Alaska Department of Fish & Game, presented a modified BOF proposal for a State water pollock fishery near Seward. Mr Krygier pointed out the specific provisions that include restrictions on gear, vessel size, and pollock quota; trip and daily harvest limits; VMS and observer requirements; and a prohibition on tendering. Two options were presented, one with a 1500 mt quota cap (Option A), and another that establishes a parallel fishery with no quota cap other than the overall federal A season allocation for the CGOA set by the Council (Option B).
2. The Committee discussed the Seward proposal extensively, and questioned how unharvested quota might be rolled back to the Federal fishery under Option A. The Committee tended to prefer a fishery that would ensure the full quota would be harvested and provide a rollover provision for unharvested pollock.
3. Mr Capron reviewed issues associated with how Options A and B might affect SSLs and their CH. [Note that on page 2 of the NMFS July 13 memorandum the last line should read “...are down 44.8 %...”] Capron reviewed information on SSL diet and abundance trends in the Chiswell Islands, Rugged Island, and Seal Rocks area, and noted the importance of the winter season to foraging SSLs. Capron stated that in considering this information relative to the two options, Option A would be unlikely to have a measurable impact on SSLs in the area and thus would not likely trigger reinitiation of formal consultation on the 2001 BiOp. Option B, however, could trigger this consultation, primarily because of the lack of an A season harvest cap for the State waters, unless further mitigating measures were provided. Capron further noted that the ESA Section 9 prohibitions on take would apply and that the current Incidental Take Statement likely could afford protection to a modified Option B, but not Option A.

4. The Committee discussed the NMFS position on the two options, and also discussed the differences between a State water fishery and a State parallel fishery, how each might apply to this proposal, and the process and criteria for attaining a State Commissioner's Permit as a condition for fishing in the State water fishery under either option. Ms Salvesson noted that should either option be implemented, these options may require Federal action to change existing SSL protection measures that currently prohibit directed fishing for pollock in these state waters by vessels named on a Federal Fisheries Permit.
5. The Committee also briefly discussed the other two BOF proposals: one near Jude Island and the other in the AI region. Ms Madsen noted that the Committee does not have a more detailed list of proposed measures for either of these proposals. The Committee requested that public comment be heard before proceeding further.

Public Comment

1. Dave Fraser, a groundfish fisherman in the AI, presented information on where most P cod are harvested in the AI region – in the 50-80 fathom depth zone – as opposed to where a pollock fishery in the AI might be prosecuted – in deeper waters. Mr Fraser also mentioned that the pollock bycatch in the P cod fishery is largely due to some vessels targeting pollock if time and space allow, while remaining under the Maximum Retainable Amount percentage (20 percent), to optimize the economic return from a fishing trip. Mr Fraser noted that the P cod fishery harvests very little pollock as bycatch. Mr Fraser also commented that a pollock fishery in the AI with 3 nm closures around haulouts and 10 nm closures around rookeries could be feasible; he also noted that it would more closely mirror the existing restrictions on the P cod fishery. Mr Fraser responded to Committee questions about the need for winter acoustic surveys and fishery data in the AI area, and the economic viability of a small quota fishery.
2. Clem Tillion, testifying for the Aleut Corp, stated that a 6,000 mt pollock fishery in the AI is the minimum quota that would provide adequate product for the Adak community. Mr Tillion also noted that the Aleut Corp needs pollock quota for the 2006 fishery and it is unlikely that a Federal action to allow fishing close to shore and close to Adak could be permitted before 2007, and therefore he requested BOF action in October 2005 for a State water fishery.
3. Beth Stewart with the Aleutians East Borough requested that the Committee consider the WGOA proposal not be restricted to just an area around Jude Island, but that the original proposal with all State waters to be opened in the proposal area is the Borough's preferred option.

Additional Proposal Discussions

1. Mr Nelson suggested that Option A for the Seward area pollock fishery would likely be the BOF's preferred option with a quota rollback procedure. Ms Madsen suggested that the BOF members of this Committee take back to the main BOF the elements of a Seward area fishery discussed at this meeting, the general sense

of the discussions and concerns, and the Committee's general preference for Option A. The Council will await a Board decision before taking any further action.

2. The Committee asked whether the 2006 specifications for the Federal pollock fishery in the CGOA could be changed to allow for a 2006 pollock fishery in State waters near Seward. Ms Salveson discussed the procedures for amending harvest quotas under the Council's new specifications process, and said that a change could be made, but would not be implemented before mid February or early March when the final 2006 harvest specifications become effective.
3. The Committee then asked for a NMFS review of the WGOA proposal for a scaled back fishery around Jude Island. Ms Salveson agreed to look at a revised proposal. Mr Nelson stated that the BOF and ADF&G will develop more specific measures for a WGOA pollock fishery in State waters such as harvest caps, trip limits, tendering restrictions, other prohibitions, and other details and provide a revised proposal in writing. NMFS will then review it and provide comments. The Committee's goal with this proposal is to avoid triggering formal Section 7 consultation. The agency also will look at a revised WGOA proposal together with a revised CGOA (Seward) proposal to determine if both can proceed without triggering formal consultation. Mr Benson asked if mitigating measures can be considered; NMFS indicated they could if they can be defined as part of a single action and are within close proximity to the Jude Island area. Ms Salveson also noted that NMFS' review would need to consider cumulative effects of both GOA proposals developed by the BOF.
4. Ms Madsen stated that the Committee likely cannot proceed with further development of a proposal for a pollock fishery in State waters in the AI region without triggering formal consultation. Ms Madsen noted that the Council will start discussions about reinitiating formal consultation on all of the Federal fisheries in the Alaskan EEZ at its October meeting, and that proposals for changes in the AI region could be included in this broader future consultation. However, if the BOF takes action on an AI State pollock fishery at their October meeting, then the Council would take up that action during the Council's December meeting.
5. Mr Benson suggested that a proposal could be brought to this Committee or the Council for an experimental-type fishery in the AI region that might be based on a small quota but would include pre-fishery acoustic surveys or other measures. Ms Madsen indicated that the Council could take up a request for an Exempted Fishing Permit at any time. Mr Benson noted that current EFPs allow fishing under special conditions, although none are allowed to occur in areas closed for SSL protection.

Next Meeting

1. The Committee tentatively agreed to meet again August 30 in Anchorage. At this time, the agenda would be the review of a revised WGOA proposal and the NMFS review of that proposal.

DRAFT

The meeting adjourned at approximately 3:00 PM.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration


National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

August 8, 2005

MEMORANDUM FOR: Kaja Brix
Assistant Regional Administrator
For Protected Resources

FROM: 
Susan Salveson
Assistant Regional Administrator
For Sustainable Fisheries

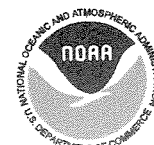
SUBJECT: Endangered Species Act (ESA) Technical Assistance Regarding
Proposed Changes by the Alaska Board of Fisheries Relating to the
Gulf of Alaska Pollock Fishery

The Alaska Department of Fish and Game has forwarded to us a new proposal under consideration by the Alaska State Board of Fish (BOF) that would adjust the Steller sea lion protection area around the Jude Island haulout in the Western Gulf of Alaska. The proposed adjustment would open up state waters within 10-20 nm of the haulout to fishing during the state's parallel pollock fishery. This area currently is closed to federally permitted vessels under the Steller sea lion protection measures (50 CFR 679.22). The BOF's proposal also includes a vessel size limit (58 feet length overall) and a daily vessel harvest limit (300,000 pounds of pollock). The BOF's full proposal is attached.

I am requesting your technical assistance in evaluating the proposed action and Endangered Species Act (ESA) requirements. We have been asked to provide an evaluation of the Jude Island proposal as a stand alone action and also cumulatively with the BOF proposed action to open state waters to pollock fishing in the proximity of the Rugged Island and Chiswell Islands haulouts in the Central Gulf of Alaska.

The potential impacts of a state water pollock fishery near Jude Island on critical habitat may be considered new information that triggers reinitiation of formal consultation on the 2001 Biological Opinion for the Steller sea lion protection measures and its 2003 supplement, as required by 50 CFR 402.16(b). We seek your assistance to determine if reinitiation of consultation for this proposal would be required.

Attachment



Alaska Board of Fisheries Interim Joint Protocol Committee Proposal
WGOA Pollock Fishery

Problem and Purpose Statement

Problem: A number of historic pollock harvest areas in the Western Gulf were closed as a result of the critical habitat designations under the 2001 Bi-Op. A portion of the area closed provided a weather-safe harvest area behind headlands. Other portions of the area are historically-important trawl areas that local small trawl vessels need to efficiently harvest pollock. The 10 – 20 mile doughnut out from the Jude Island haulout was a negotiated closure as a Reasonable and Prudent Alternative (RPA) trade-off to enable the opening of higher production fishing areas occurring in other critical habitat in federal waters. The proposal also seeks to assure that communities adjacent to the resource have access to the harvesting and processing of the resource.

Purpose: To regain historic access to protected, but productive, state waters for the small boat fleet in the Western Gulf and to slow down the pace of the fishery with vessel size, trip and tendering limits throughout state waters in the western Gulf of Alaska so that the small boat fleet can successfully access the pollock resource adjacent to Western Gulf communities.

The primary goal of this proposal is to present a management plan for a state waters pollock harvest that provides fishery-dependent communities access to the pollock resource in waters adjacent to their communities by regaining some of the important state-water fishing areas closed under the 10-20 mile Reasonable and Prudent Alternatives (RPA) closures in the area of Jude Island by offsetting opening of the RPA by imposing mitigation measures that render the action Steller sea lion (SSL) impact neutral.

NFMS Proposal Evaluation Information

1. The geographic extent of the proposal is to open a portion of state waters not currently open in the WGOA parallel fishery in the area of the ring between 10 and 20 miles of the Jude Island SSL haulout as demonstrated on maps developed by NMFS and provided to the NPFMC, BOF and ADF&G during previous Interim Joint Protocol Committee meetings (this is not intended to affect the Olga Rocks 10 mile SSL protective haulout closure).
2. All state waters in the Western Gulf, including the proposed open areas described in #1, would be open only to pelagic trawl vessels 58 feet in length or less, generally having less than a 100,000 pound capacity except that non-pelagic trawl gear would still be allowed in a few small areas as provided in 5 AAC 39.163 and 5 AAC 39.164.

For the Jude Island statistical areas that include the proposed open areas, the majority of the harvest is currently by boats 58 feet or less. In 2004, 95% of the pollock harvested in state waters in the statistical areas around Jude Island (outside of the 20-mile circle) was

landed by boats 58 feet or less, mostly in the late summer and early fall. Most of these boats are owned by residents of Sand Point.

3. Seasonal and annual apportionment of pollock harvests will continue to be determined by NMFS based on the four pollock seasons (A, B, C and D) for the WGOA pollock fishery. This seasonal structure was developed to minimize possible SSL interaction. The amount to be harvested in the partial Jude Island doughnut is not determinable, but will be a small fraction of the total WGOA TAC and a small fraction of any particular seasonal apportionment.

Since this is a parallel fishery, the seasonal splits will still be in effect as part of SSL protection measures. The proposed open areas around Jude Island were offered to be closed as an RPA--negotiated areas to be closed because they were not as productive for larger boats. However, these areas are important to some smaller vessels as they provide moderately productive and safe fishing grounds. In years prior to the sea lion restrictions and RPA closure (1995-1999), anywhere from just under 20,000 to 4 million pounds were harvested from the statistical areas that include both the proposed open areas around Jude Island and the current high production areas negotiated to remain open in the RPA process. Considering the proposed vessel size restrictions and daily tendering/landing limits, it is anticipated that the harvest from the proposed open areas will be lower than the historic maximum taken from these areas. For example, the eastern portion of statistical area 605507 remained open under the RPAs and continues to provide a large harvest while the less productive western portion of 605507 would open as safe fishing grounds for smaller fishing vessels nearer the community of Sand Point.

More specific harvest data from the fish ticket database remains confidential and cannot be provided here. However, this data will be provided to appropriate NMFS personnel authorized under an existing data sharing MOA.

4. Harvest monitoring will be the same as for the existing WGOA federal/parallel pollock fishery.
5. Limitations on participation in the area will be the same as for the existing federal/parallel WGOA pollock fishery, with the additional restrictions that only vessels less than or equal to 58 feet in length can participate in the partial Jude Island doughnut and in all other state waters of the WGOA, in addition to 300,000 pound daily vessel trip limits and the 600,000 pound tendering restriction in order to slow down the pace of the fishery as mitigation measures. Because state waters will be limited to smaller vessels, the current high production areas in state waters that are open will continue to attract most of the effort. See example for statistical area 605507 described in #3.
6. Fishing will occur at the same time as NMFS allows for other pollock fishing in the WGOA.

7. The type and method of harvest will be the same as that which occurs under NMFS rules and seasons in the federal/parallel WGOA pollock fishery.

Discussion

SSL closure areas impacted the Western Gulf of Alaska by closing a number of historic pollock harvest areas as critical habitat under the 2001 BiOp. A portion of the closed area provided a weather safe harvest area behind the headlands or in the lee of islands. Others are important historic “drags” (fishing areas) that were closed as an RPA trade-off for opening other areas of critical habitat in federal waters. It is obvious that not all of the WGOA pollock harvest will occur in this new area; only a small fraction of the vessels are likely to fish in the newly-opened area, where there will be daily trip and tendering limits. Historically, the Jude Island area has not produced the majority of the pollock catches in the Western Gulf of Alaska area. Rather, it will offer more opportunity for safe fishing and spread the harvest over a wider area of the WGOA.

Under the BOF’s proposal, the full 10 – 20 mile doughnut would be opened (except that area closed around other haulouts). Two measures would be taken to slow down the fishery in state waters to assure that small vessels and their associated communities receive a fair share of the pollock harvest adjacent to their community: 1) the new regulation that restricted tendering to 600,000 pounds and the 300,000 pound trip limits for catcher vessels had the unintended result of a very shortened season length and a disproportionate amount of harvest being tendered outside of the local Sandpoint and King Cove communities. The Board’s proposal would maintain the 600,000 pound onboard tendering limit, but change the existing 300,000 pound vessel trip limit to a 300,000 pound daily vessel limit; and 2) only allow vessels less than or equal to 58 feet length overall to fish pollock in the state waters of the Western Gulf from 157° to 163° W longitude.

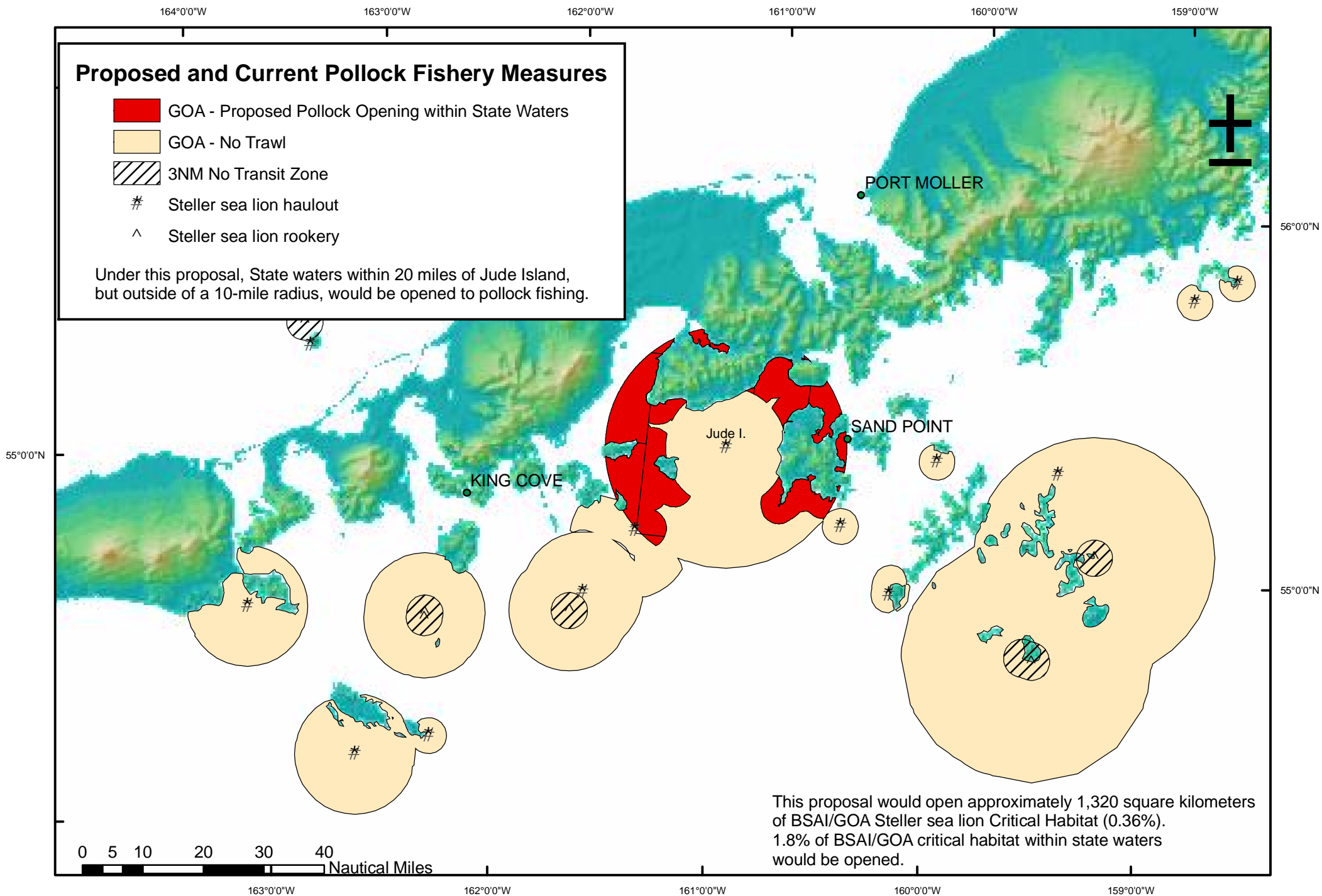
These actions will slow down fishing effort, improve management’s ability to contain quota overage, and disperse catch over time, thereby reducing the possibility of localized depletion of prey (pollock) and resulting in an overall finding of either neutral or beneficial impact to SSL in the Western GOA during the A/B season, as outlined under the 2001 BiOp. During the C/D seasons, pollock are more prevalent in federal waters, so these measures are not likely to increase impacts during these C/D seasons.

Ssalveson:8-4-05

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Alaska Board of Fisheries Proposal 455 - Western GOA

Amended Management Plan for Parallel Groundfish Fisheries





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration


National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

August 8, 2005

MEMORANDUM FOR: Susan Salveson
Assistant Regional Administrator
For Sustainable Fisheries

FROM: Kaja Brix 
Assistant Regional Administrator
For Protected Resources

SUBJECT: Endangered Species Act (ESA) Technical Assistance
Regarding Proposed Changes by the Alaska Board of
Fisheries to the Gulf of Alaska Pollock Fishery

I have reviewed your August 8, 2005, request for technical assistance on potential impacts of the proposed action on Steller sea lions and their designated critical habitat under section 7 of the Endangered Species Act (ESA). The intent of the proposal by the Alaska Board of Fisheries (BOF) is to open state waters (0-3 nm) within the current 10-20 nm closure area around Jude Island for pollock fishing with trawl gear.

The federal fishery in Alaska currently operates under a series of formal section (7) consultations and associated incidental take statements:

- November 2000 Biological Opinion on the Fishery Management Plans and associated regulations for the groundfish fishery in the Bering Sea and Aleutian Islands Area and the Gulf of Alaska.
- October 2001 Biological Opinion on the federally managed pollock, Pacific cod, and Atka mackerel fisheries in the Bering Sea and Aleutian Islands Area and the Gulf of Alaska and parallel fisheries for pollock, Pacific cod, and Atka mackerel as authorized by the State of Alaska within 3 nm of shore.
- June 2003 Supplement to the October 2001 Biological Opinion on the pollock, Pacific cod, and Atka mackerel fisheries in the Bering Sea and Aleutian Islands Area and the Gulf of Alaska.

Since the last formal consultation in 2001, informal consultations have occurred on proposed changes to fisheries inside Steller sea lion critical habitat, and changes were made in 2004 in the Gulf of Alaska (January 13, 2004 informal consultation). NMFS sent a letter on March 4, 2005, to Art Nelson, Chairman of the BOF, expressing concern over a series of proposed changes to the current Steller sea lion conservation measures (e.g., Aleutian Islands and GOA pollock fisheries). In that letter NMFS stated that the proposal would likely trigger a reinitiation of the 2001 consultation on the federally managed groundfish fisheries due to new impacts which were not previously considered.



Additionally, NMFS provided a response to a BOF proposal to open areas near Cook Inlet (July 13, 2005). In that memorandum, NMFS initially determined that the action, as proposed, would be unlikely to trigger a reinitiation of consultation of the 2001 Biological Opinion. The current proposal to further open closed areas around Jude Island will be considered in the context of these previous consultations.

Proposed Action

This additional proposal by the BOF would open portions of State waters near Jude Island (western GOA) to pollock fishing (Figure 1). The area within 20 nm of Jude Island (listed critical habitat; 50 CFR § 226.202) is currently closed to federally permitted vessels under the Steller sea lion protection measures (50 CFR § 679.22). The proposal would open State waters within the 10-20 nm zone around Jude Island with the exception of the area extending 10 nm from Olga Rocks (also designated critical habitat).

The proposed area would be open only to pelagic trawl vessels 58 feet in length or less. Historical fisheries around Jude Island (including the proposed open areas) have been harvested primarily by boats 58 feet or less. In 2004, 95% of the pollock harvested in state waters in the statistical areas around Jude Island (outside of the 20-mile circle) was harvested by boats 58 feet or less, mostly in the late summer and early fall. Most of these boats are owned by residents of Sand Point.

Seasonal and annual apportionment of pollock harvests will continue to be determined by NMFS based on the four pollock seasons (A, B, C and D) for the western GOA pollock fishery. This seasonal structure was developed to minimize potential competition with sea lions. The amount of pollock expected to be harvested in the proposed areas around Jude Island is not determinable, but may be a substantial fraction of the total western GOA seasonal total available catch (based on confidential data provided by the State to NMFS for years 1995-2004).

As described by the State in their letter, the 20 nm closure area around Jude Island was negotiated to be closed during the development of Steller sea lion conservation measures in 2001. The State noted in their letter that this area was offered in part because this area is less productive for larger boats. Yet, the area may be important to smaller vessels as they provide moderately productive and safe fishing grounds. In years prior to the sea lion restrictions around Jude Island (e.g., 1995-1999), from 20,000 to 4 million pounds of pollock were harvested from the statistical areas that include both the proposed open areas around Jude Island and the current high production areas which were negotiated to remain open.

Potential Effects on Steller Sea Lions and their Critical Habitat

The proposed action clearly represents new information not considered in the 2001 Biological Opinion. The "no jeopardy" and "no adverse modification of critical habitat" findings by NMFS were based on a proposed action that included management of the parallel fisheries for Pacific cod, pollock, and Atka mackerel according to federal

regulations within waters managed by the State of Alaska (0-3 nm from shore). The 2001 Biological Opinion considered an action which closed 85% of the 0-10 nm zone to pollock trawl fisheries. The proposed action results in a loss of 1.8% of critical habitat within State waters. This is in addition to the 1.14% loss of nearshore (0-3 nm) critical habitat protection near Cook Inlet (see NMFS July 13, 2005 memorandum from Ronald Berg to Susan Salveson).

Steller sea lion non-pup (i.e., adults and juveniles) counts were down 54.7% from 1985-2000 in the western GOA, while from 2000-2004 non-pup counts were up 23.7% (Table 1). Numerous listed and non-listed haulouts and rookeries occur close to or within the Jude Island 20 nm zone. Listed critical habitat sites are provided in Figure 1. The larger set of sites including non-listed haulouts and rookeries is provided in Figure 2. Adult counts of sea lions during the breeding season (May-August) are provided in Table 2a, non breeding season counts in Table 2b (September-April), and pup counts at both listed and non-listed rookeries are provided in Table 3.

The first recorded adult count at Jude Island was in 1957 when 5,042 adult sea lions were observed. The first recorded pup count was in 2001 when 182 pups were observed. Information from an Alaska Department of Fish and Game in-house report indicated that on June 13, 1965, 119 bulls and 631 females were present on Jude Island, and 352 pups were counted (north side of the Island only; Ken Pitcher pers. comm., Alaska Department of Fish and Game). This report was part of an approved pup harvest program which was intended to limit removals to half of the entire pup population. By 1985, counts at Jude Island had declined to 315 adults, and have remained below 500 animals since. Although not listed as a rookery site under critical habitat, it is an important rookery in the western GOA. In 2005, Jude Island contributed about 11% of the total pup production in the western GOA region. In 2005, Jude Island (206 pups) was a larger rookery than the listed rookery at nearby Chernabura (115 pups) and nearly as large as Atkins (266 pups).

Nearby haulouts at Whaleback (102 adults), Sea Lion Rocks (36 adults), and Nagai Mountain Point (80 adults) have fishery closure areas which extend only to 3 nm, while most haulouts and rookeries are closed out to 10 nm to avoid competition in the most important habitat foraging areas for sea lions (2001 Biological Opinion). The proposal by the State indicates that the open area would not include the 10 nm area around Olga Rocks on the southwest side of Jude Island. Previous maps are therefore slightly incorrect indicating red areas up to Olga Rocks, and should indicate an additional closure which would continue to extend 10 nm from Olga Rocks. This correction is made in Figure 2, indicating the areas to be opened as described in the written proposal provided to NMFS. In addition to the listed sites, Unga (Acheredin Pt.) and Wosnesenski (see Figure 2) are important haulout sites which occur inside the proposed open area. The state's proposal would authorize fishing for pollock in state waters surrounding these sites. Counts indicate 264 adult sea lions at Unga and 166 at Wosnesenski in 2004 (Table 2a; breeding season). Non-breeding counts have also shown substantial use in this area with 468 adults counted at Jude Island in 1999, 30 at Unga, and 110 at Sea Lion Rocks (Table 2b).

The GOA pollock stock is the essential feature of critical habitat which may be affected. Sinclair and Zeppelin (2002) report pollock in 79.8 % of Steller sea lion scats in the Western GOA during the summer and 85.5% of scats collected in the winter. Pollock is the dominant prey item for sea lions in this area. In general, the stock has been depressed for a number of years with below average recruitment and will likely decline after 2006 following declines in the last large year class observed in 2000 (Dorn et al., 2004).

Information about the potential impacts of trawl fisheries on sea lion prey is mixed (Logerwell 2005¹). Since the last formal consultation on the fisheries (NMFS 2003, Supplement to the 2001 consultation), NMFS has conducted experiments to determine whether trawl fisheries do in fact alter the prey field. For pollock fisheries, of the two years that the experiment was completed, one year resulted in a change to the prey field and one year did not. Mixed results were also found for the Atka mackerel fishery in the Aleutian Islands, while no localized depletion was found for the Pacific cod fishery in the Eastern Bering Sea. However, conclusions based on the Pacific cod study disagree with an analysis of the Pacific cod fishery using winter survey data from 2001 (Fritz and Brown, in press).

The 2001 Biological opinion explicitly states that trawl fishing is the most likely fishing activity to negatively impact Steller sea lions both indirectly by removing large quantities of pollock from foraging areas and directly by entanglement in fishing gear. A trawl fishery for pollock within the primary foraging zones of juveniles and adult females has a high potential to negatively impact both age groups. The 0-3 and 3-10 nm closure zones are believed to be the primary foraging areas for juvenile and adult female sea lions. Juvenile sea lions foraging in the Gulf of Alaska spend up to about 98% of their time within 10 nm of shore (2003 Supplement). Furthermore, adult females also forage in this zone up to 80% of the time. Because they forage close to shore, juveniles and adult females have been defined as the most likely groups to be negatively impacted by competition with fisheries. A decline in juvenile survival and lower reproductive success for adult females due to reduced prey availability have been identified as possible causes for the decline. Changes to fishery management practices protecting nearshore Steller sea lion foraging habitat may be facilitating the recovery observed since 2000. If the recovery does continue, it will be important to sustain the closure areas unless new information reveals that fishing in nearshore areas is not a threat to that recovery.

In summary, the proposal would open nearshore areas to pollock trawl fishing in an area with numerous sea lion haulout and rookery sites. Pollock is the dominant prey item for sea lions in this area, and is a year round staple in Steller sea lion diet (based on frequency of occurrence). Nearshore fisheries for pollock would be likely to remove important prey resources that are the primary element of critical habitat within this area. Fisheries, although limited to smaller vessels, are likely to remove substantial quantities of pollock, thereby affecting critical habitat. Given that this area has already been considered to be important as a closure (2001 Biological Opinion) such that other nearby

¹ Presentation and document presented by Libby Logerwell (Alaska Fisheries Science Center) to the Council in June 2005. Document dated June 6, 2005; 18 pages.

areas could be opened within the 0-10 nm zone, further opening of areas in critical habitat in this region may have an adverse impact on sea lions and their critical habitat.

Section 7 Consultation Requirements

The GOA pollock fishery has already been formally consulted on under section 7 of the ESA at both the plan level (2000 Biological Opinion) and at the project level (2001 Biological Opinion and 2003 Supplement). Therefore, this review is to determine whether the proposed action, and the likely impacts described above, are likely to trigger reinitiation of formal section 7 consultation based upon the following guidelines as required by 50 CFR § 402.16(b):

- (a) the amount or extent of taking specified in the incidental take statement is exceeded;
- (b) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- (c) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or
- (d) a new species is listed or critical habitat designated that may be affected by the identified action

The third trigger (c) above applies most directly to this proposal. The objective is to determine whether the proposal would modify the action in a manner that would cause an effect to Steller sea lions or their critical habitat that was not considered in previous biological opinions (i.e., 2000 or 2001). Generally, if that potential effect is discountable, insignificant, or completely beneficial then the trigger would not be reached.

The implementation of this fishery would result in pollock removals from Steller sea lion critical habitat that were not considered in the cumulative effects analysis of the 2000 Biological Opinion or the 2001 Biological Opinion and its supplement. Clearly, this proposal is a change to the action considered in the 2001 Biological Opinion. Substantial removals from this area would be expected. Therefore, this proposed action would trigger reinitiation of the 2001 Biological Opinion.

Table 1. Counts of adult and juvenile (non-pup) Steller sea lions observed at 1970s trend sites in seven sub-areas of Alaska during June and July aerial surveys from 1985 to 2004. Also shown are overall percent changes between various pairs of years and estimated annual rates of change between 1991 and 2000 and between 2000 and 2004. Annual rates of change that are significantly different from zero ($P < 0.05$) are shown in bold. ND = no data. Data shown for 2004(*) have been adjusted to account for film format-count differences (from Fritz and Stinchcomb 2005).

Year	Gulf of Alaska			Aleutian Islands			Kenai to Kiska	Western Stock in AK
	Eastern	Central	Western	Eastern	Central	Western		
1985***	ND	19,002	6,275	7,505	21,956	4,526	54,738	
1990	5,444	7,050	3,915	3,801	7,988	ND	22,754	
1991	4,596	6,270	3,732	4,228	7,496	3,083	21,726	29,405
1992	3,738	5,739	3,716	4,839	6,398	2,869	20,692	27,299
1994	3,365	4,516	3,981	4,419	5,820	2,035	18,736	24,136
1996	2,132	3,913	3,739	4,715	5,524	2,187	17,891	22,210
1998**	2,110	3,467	3,360	3,841	5,749	1,911	16,417	20,438
2000	1,975	3,180	2,840	3,840	5,419	1,071	15,279	18,325
2002	2,500	3,366	3,221	3,956	5,480	817	16,023	19,340
2004*	2,536	2,944	3,512	4,707	5,936	898	17,099	20,533
Percent change								
1985-2000		-83.3%	-54.7%	-48.8%	-75.3%	-76.3%	-72.1%	
1985-2004		-84.5%	-44.0%	-37.3%	-73.0%	-80.2%	-68.8%	
1991-2000	-57.0%	-49.3%	-23.9%	-9.2%	-27.7%	-65.3%	-29.7%	-37.7%
1991-2004	-44.8%	-53.0%	-5.9%	11.3%	-20.8%	-70.9%	-21.3%	-30.2%
2000-2004	28.4%	-7.4%	23.7%	22.6%	9.5%	-16.1%	11.9%	12.1%
Estimated annual rates of change: 1991 to 2000								
Rate	-9.3%	-7.4%	-2.7%	-1.8%	-2.9%	-9.5%	-3.8%	-4.9%
+95% CI	-5.1%	-5.7%	0.2%	1.1%	-0.3%	-4.0%	-3.3%	-4.3%
-95% CI	-13.3%	-9.1%	-5.5%	-4.7%	-5.4%	-14.6%	-4.2%	-5.5%
P	< 0.01	< 0.001	> 0.05	> 0.10	< 0.05	< 0.01	< 0.001	< 0.001
Estimated annual rates of change: 2000 to 2004								
Rate	6.3%	-1.9%	5.3%	5.1%	2.3%	-4.4%	2.8%	2.8%
+95% CI	59.8%	39.2%	13.3%	37.0%	16.0%	87.0%	6.2%	4.0%
-95% CI	-29.1%	-30.9%	-1.9%	-19.2%	-9.8%	-51.0%	-0.4%	1.8%
P	> 0.30	> 0.60	> 0.05	> 0.20	> 0.20	> 0.50	> 0.05	< 0.05

** For eastern Gulf of Alaska in 1998, counts made in 1999 were substituted for those sites not surveyed in 1998.

*** For western Aleutian Islands in 1985, counts made in 1988 were substituted for Buldir.

Table 2a. Adult Steller sea lion counts at selected haulout and rookery sites in the western GOA during the breeding season (May-August; from NMML count database).

Site name (bold = rookery)	Rookery	1956	1957	1978	1979	1985	1986	1987	1989	1990	1991	1992	1994	1996	1997	1998	2000	2002	2004
ATKINS	1		4995		5000	1562	1129	84	755	728	616	793	571	624	544	602	537	560	651
ATKULIK	0							6	0		0	0	0	0	0	0	0	0	0
BIG KONIUJI	0							668	34	134	216	160	347	190	146	54	88	95	57
BIRD	0	262				170		258	79	75	56	89	152	98	76	155	38	75	70
CASTLE ROCK	0	600				12	847		0		0	0			0	257	89	109	
CATON	0								0										
CHANKLIUT	0								15					0	0	0	3	28	0
CHERNABURA	1	4806			1504	487	456	150	544	442	650	459	676	422	729	624	496	496	828
CHERNI	0								1		0	0	105	0	0	2	0	0	0
CLUBBING ROCKS N & S	1	1556	2663	1162	1251	1023			856	1021	920	970	931	957	934	858	712		911
CLUBBING ROCKS NORTH	1																	278	
CLUBBING ROCKS SOUTH	1																	552	
EGG (SAND POINT)	0										3			2	76	0	0	1	0
HAGUE ROCK	0														0	0	0	0	0
HUNT	0																		
JUDE	1	5042				315			200	363	352	410	355	434	450	391	374	474	
KAK	0								185	172	132	184	201	235	236	70	108	17	
KUPREANOF POINT	0										54	24	75	52	34	10	12	64	53
LIGHTHOUSE ROCKS	0				737				172	140	168	96	105	114	92	131	64	84	111
MITROFANIA	0								70	148	112	192	188	266	247	126	150	182	
NAGA/MOUNTAIN POINT	0								22	0	0	5	88	120	0	24	62	105	80
NAGA/RK W OF CAPE WEDGE	0	200				183		30	0					0	0	0	0	0	0
OLGA ROCKS	0										152			262	266	375	248		
OLGA ROCKS NE	0																	44	11
OLGA ROCKS SW	0																	120	117
OMEGA	0													0	0	0	0	0	0
PINNACLE ROCK	1	3142	3692	2731	1588	1932		0	1366	1305	1048	1092	977	1026	1007	864	868	1034	1011
ROCK	0					21		0	0	104	0	11	0	0	0	0	0	0	17
SANAK	0								96	84	138	149	219	192	174	152	33	26	36
SEA LION ROCKS (SHUMAGINS)	0					377					0	0	0	0	0	0	0	0	0
SEAL CAPE	0	372									0	0	0	0	0	0	0	0	0
SOUTH ROCKS	?	3607	1320			892			332	290	232	342	345	402	408	161	262	528	
SOZAVARIKA	0																		
SPITZ	0	125				645			156	126	88	3	20	110	21	27	6	0	1
SUSHILNOI ROCKS	0										230			102	154	108	64	110	290
THE HAYSTACKS	0								0	0	0	0	0	30	60	62	50	38	
THE WHALEBACK	0								355	419	411	395	324	288	343	316	162	116	102
TWINS	0										0	0	0	0	0	0	0	0	0
UMGA	0																		
UNGA/ACHEREDIN POINT	0								36		40	0	74	63	147	108	188	264	
UNGA/CAPE UNGA	0										0	0	0	0	0	0	0	0	0
WOSNESENSKI	0										0	0	0	0	1	0	0	2	166

Table 2b. Adult Steller sea lion counts at selected haulout and rookery sites in the western GOA during the non-breeding season (September-April; from NMML count database).

Sitename	1957	1960	1983	1993	1994	1996	1997	1999
ATKINS				85	113	0	28	38
ATKULIK				0	0			0
BIRD	61			122	99			149
CASTLE ROCK				62	65	5	0	90
CATON								0
CHANKLIUT								0
CHERNABURA				369	372	200	300	285
CHERNI				0	0			0
CLUBBING ROCKS		200		669	515	500	475	701
HAGUE ROCK								52
JUDE				340	245	300	125	468
KAK				60	51			73
KUPREANOF POINT				60	50	0		36
LIGHTHOUSE ROCKS				101				73
MITROFANIA				176	174	15	150	123
NAGAI/MOUNTAIN POINT				61	61			5
NAGAI/RK W OF CAPE WEDGE								0
OLGA ROCKS					104	100	100	184
OMEGA								0
PINNACLE ROCK				224	364	250	150	198
ROCK				0	0			0
SEA LION ROCKS (SHUMAGINS)			508	54	109			110
SEAL CAPE				0	0			18
SOUTH ROCKS		1000		278	282			331
SOZAVARIKA								8
SPITZ				1	0	0		72
SUSHILNOI ROCKS					69	50		102
THE HAYSTACKS				0	0			25
THE WHALEBACK				317	171	300	222	260
TWINS				0	0			0
UMGA				0				0
UNGA/ACHEREDIN POINT				59	64			30
UNGA/CAPE UNGA				0				0
WOSNESENSKI				0	0			0

Table 3. Counts of Steller sea lion pups at listed rookery sites (**bold**) and listed haulout sites in the western GOA (from NMML count database). Although Jude Island is not a listed rookery, in the latest count it contributed 11% of the western GOA pups.

Year	Lighthouse Rocks	Atkins	Chernabura	The Whaleback	Jude	Pinnacle Rock	Clubbing Rocks	South Rocks
1978	250	2750	486				725	30
1979	112	4538	646			2748	1419	
1984		2093	200			2013	1394	
1986		1072	379					
1990		433	197					
1991		485				794		
1992			211				433	
1994		324	139			652	547	
1996		366						
1998		352	54			639	448	
2000	5	262		12		634		
2001			92				490	
2001	4	172	138	13	182	501	417	
2002	7	224		16	119	769		
2002	4	274	115	16	130	466		36
2003			82	22	61		566	
2004		266			187	663		
2005			115	23	206		583	
Count 04-05		266	115	23	206	663	583	
Percent of WGOA pups		14%	6%	1%	11%	36%	31%	

Figure 1. Alaska Board of Fisheries proposal to open areas around Jude Island. Map of listed haulouts and rookeries near Jude Island.

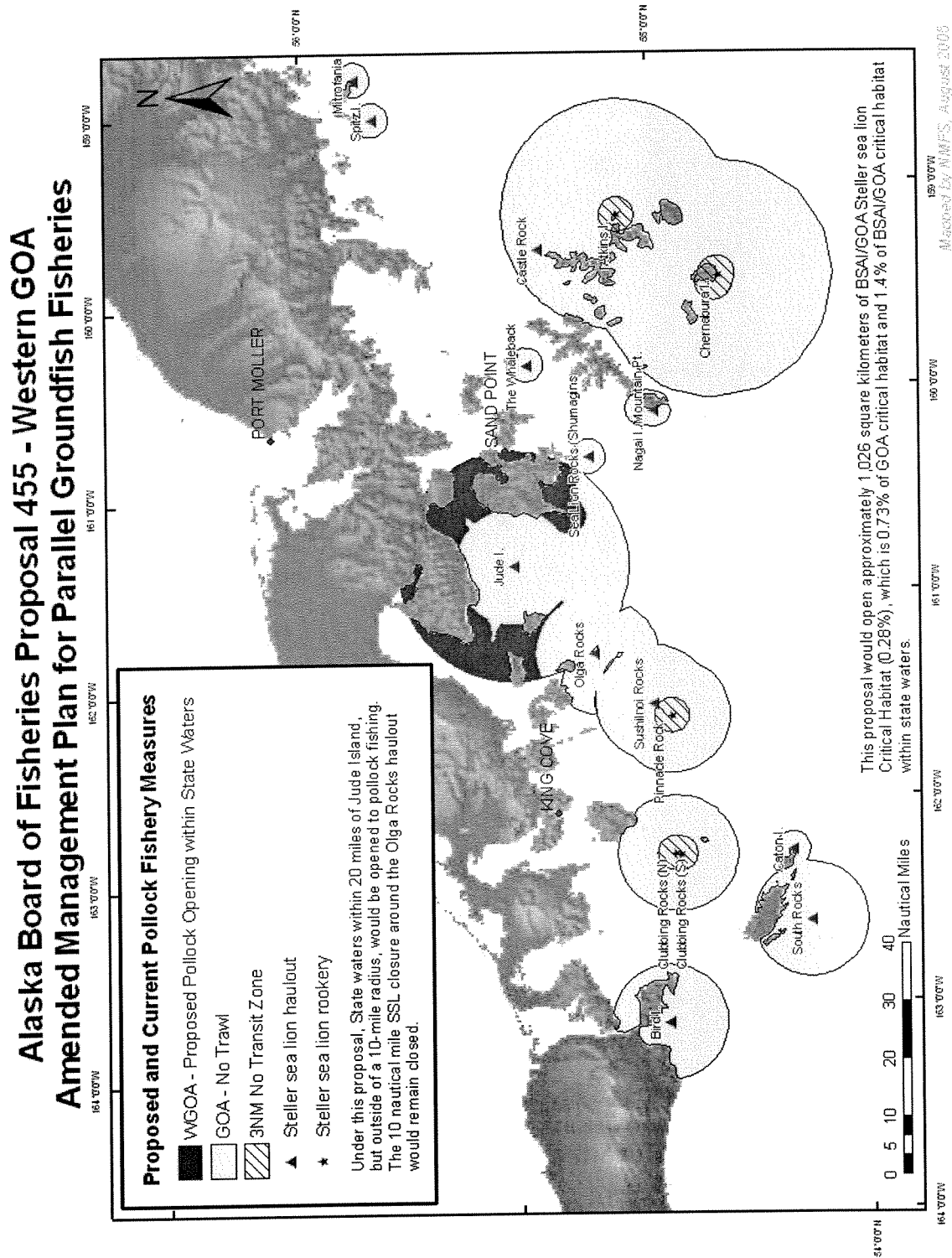
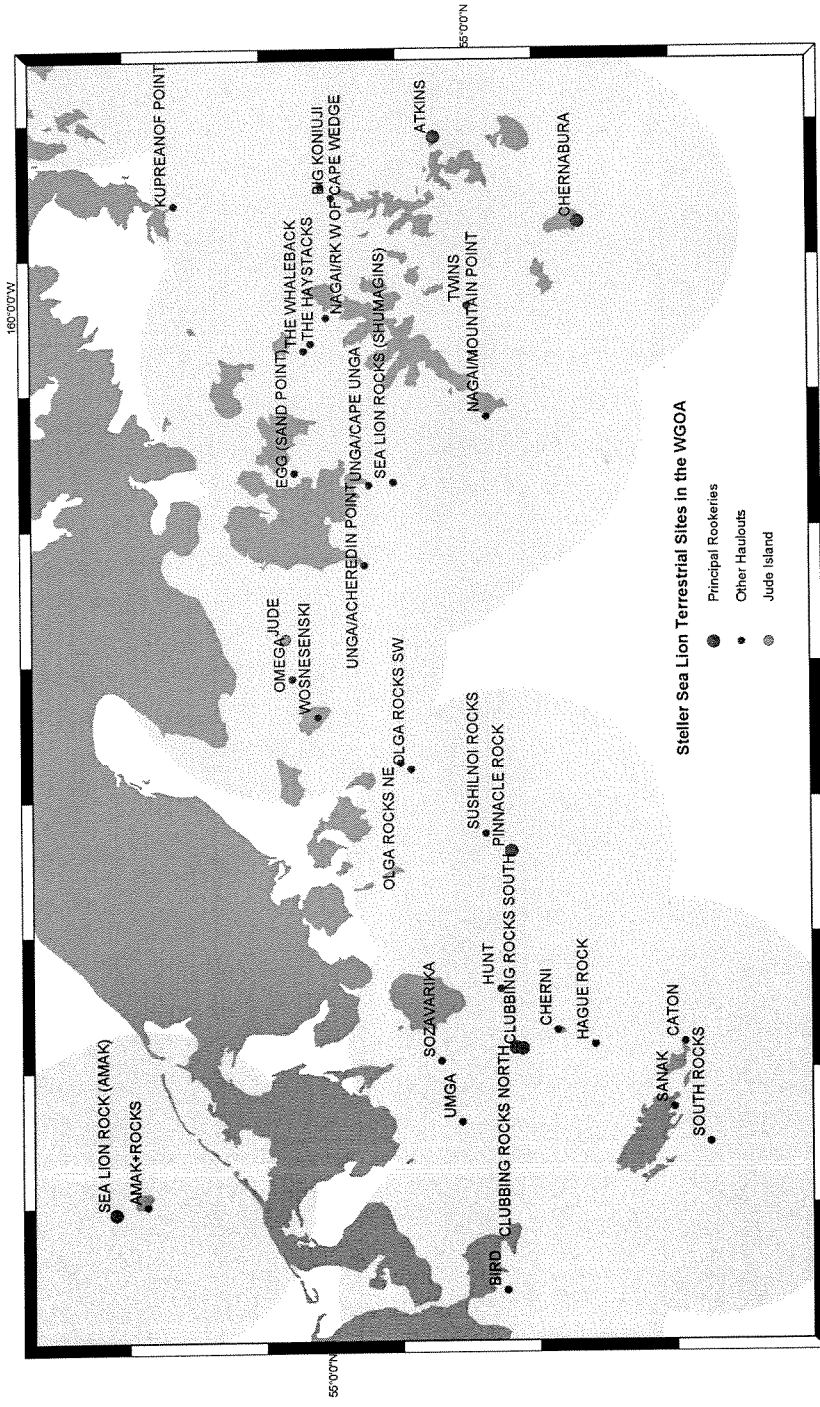


Figure 2. Map of both listed and non-listed rookeries and haulouts near Jude Island (based on NMML count database).



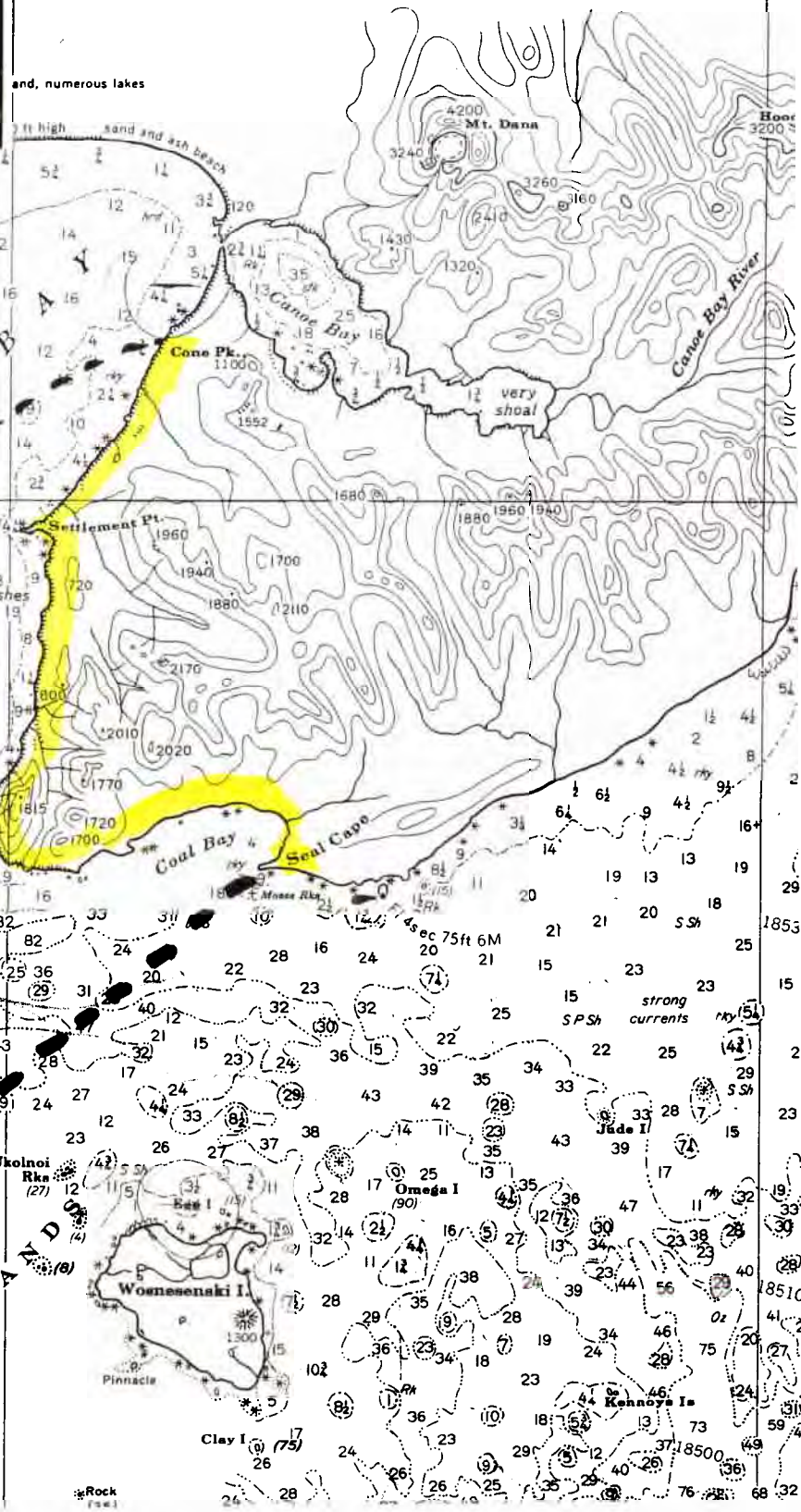
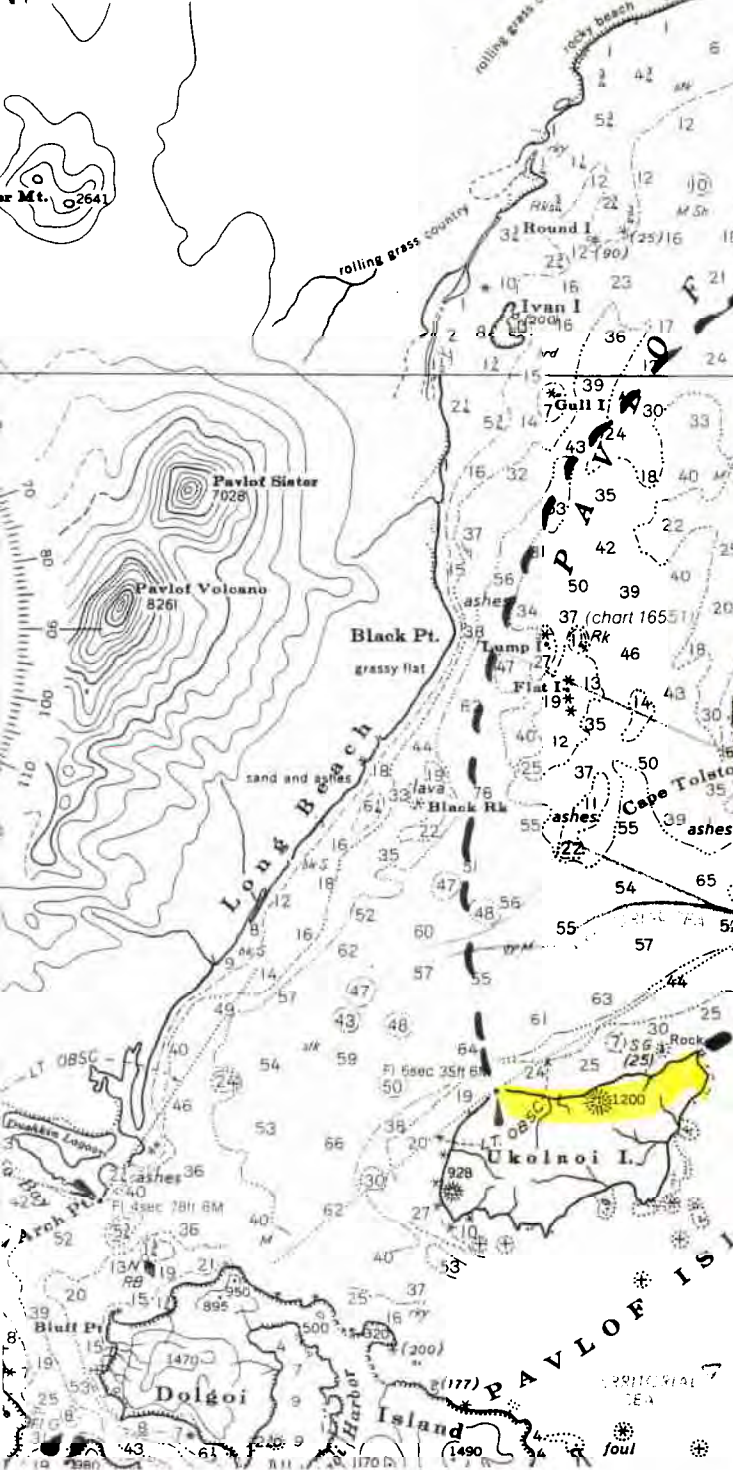
In NMFS review of the Board's western Gulf of Alaska pollock proposal, they note a number of new areas being used by SSL for both rookeries and haulouts. Considering this extension of areas, the NMFS believed that the Board's proposal might impact SSL under the constraints of the 2001 BiOp. The Board would like the NMFS to consider the following suboption provided below (1b) as an alternative that we believe would address the concerns in the NFMS document.

NFMS Proposal Evaluation Information

1. (a) The geographic extent of the proposal is to open a portion of state waters not currently open in the WGOA parallel fishery in the area of the ring between 10 and 20 miles of the Jude Island SSL haulout as demonstrated on maps developed by NMFS and provided to the NPFMC, BOF and ADF&G during previous Interim Joint Protocol Committee meetings (this is not intended to affect the Olga Rocks 10 mile SSL protective haulout closure).

(b) The geographic extent of this alternate proposal is to open a portion of state waters not currently open in the WGOA parallel fishery in that area formed by boundaries established on the eastern shoreline of Pavlof Bay on the Alaska Peninsula including waters of the bay within the 20-mile radius of Jude Island to the shoreline from the entrance of Canoe Bay to Cape Tolstoi, on through Coal Bay to Seal Cape, and from a line drawn from Seal Cape southwesterly to and including the north shore of Ukolnoi Island (see attached chart).

As a final note, the Board would expect that the NMFS reflect upon the fact that SSL are increasing in numbers in this area and are expanding the use of rookeries and haulouts; all under the current fishery regime. Much of this fishery occurs in State waters in proximity to some of these newly described haulouts (Haystacks) and rookeries (Whaleback). Therefore, one might conclude that the current harvest of pollock in state waters does not appear to impact SSL recovery in the WGOA.



Alaska Board of Fisheries Interim Joint Protocol Committee Proposal
Adak pollock Fishery (August 30, 2005)

Problem and Purpose Statement Strawman for Adak

The primary goal of the Alaska Board of Fisheries strawman proposal is to develop management options for pollock harvests in state waters near Adak, in the Aleutian Islands, that provide access for a small boat fishery that provides a means for the Congressional intent to develop a small vessel fishery adjacent to the community of Adak

Adak

Problem: *The U.S. Congress, in Section 803 of the Consolidated Appropriations Act of 2004 (HR 2673, now Public Law 108-199) required that future directed fishing allowances of pollock in the Aleutian Islands be allocated to the Aleut Corporation. The Aleut Corporation was unsuccessful in harvesting its allocation outside of critical habitat during the 2005 season and sought access to safer, nearshore state waters via a proposal to the Alaska Board of Fisheries.*

Purpose: *To provide community economic development via a pollock fishery in the safer, nearshore state waters of the Aleutian Islands.*

NMFS Proposal Evaluation Information

- 1) The geographic extent of the proposal.

The current information that NMFS has indicates most of the SSL juveniles are within 0 – 1 mile from shore (the information was not aggregated by proximity to rookeries and haulouts). Therefore two options are considered:

Option 1.) Open all state waters between 174° to 178° W longitude 1 – 3 miles, except continue rookery closure 0 – 20 miles.

Option 2.) Between 174° to 178° W longitude state waters 0 - 3 miles around haulouts and 0-20 miles around rookeries shall remain closed, the rest of state waters, 0 – 3 miles, are opened.

- 2) Type, size, number and capacity of vessels: State waters described above would only be open to pelagic trawl vessels 58 feet in length or less, generally having a harvest capacity of less than 100,000 pounds. It is expected that less than 12 vessels would participate.

3) How much fish will be harvested and how will it be seasonally apportioned? Harvest Options: (Could also limit to fishing to 3 days/week – vessel choice by weather – to further reduce possible depletion concerns.)

Option 1) 1,500 mt, A-season only

Option 2) 3,000 mt, A-season only

Option 3) 3,775 mt (25% of the 15,100 mt Aleut allocation for 2005/2006 as described in the February 24, 2005 Federal Register notice. This will move to 50% of the Aleut TAC allocation after 2008.) A-season harvest only through 2008.

Option 4) No limit up to the TAC (19,000 mt), A-season 40%/B-season 60% split remains in place.

4) Methods for monitoring harvest and harvest area compliance:

1) VMS will be required on all vessels fishing pollock in state waters between 174° to 178° W longitude.

2) No codend transfers are allowed; each vessel must deliver its catch directly to a plant where the unsorted catch can be observed to account for bycatch of rockfish, which are a concern to managers.

5) Limitations on participation: Because Adak is so far a distance from GOA communities where 58' vessels are available, only a few contracted vessels are likely to travel from Sandpoint to Adak for the A-season harvest.

6) When will fishing occur: Fishing will occur at the same time as the non-critical habitat open areas in federal waters, except that the Board will allocate the small vessel harvest only during the A-season.

7) Type and method of harvest: As described above and the same as that which occurs under NMFS rules and seasons in the federal/parallel Aleutian Islands pollock fishery.

Discussion

The goal of opening the state waters of the Aleutian Islands from 174° to 178° W longitude is to support community development by providing a safe fishing area (near the lee of islands and headlands) which will allow for the development of a small vessel fleet in Adak. Access to state waters is particularly important for small vessels fishing in the Aleutian Islands. Weather

conditions in this area can be extreme and these vessels need either safe harbor and/or weather protection while working in the lee of land. The most dangerous time for small pollock trawlers is after haul back, when the net is brought on board to dump the catch into the hold. Without protection from heavy weather behind headlands, a vessel could turn turtle.

Also, concern by NMFS about bycatch species has also been expressed. To assure that vessels fish cleanly and accurately report catch and bycatch on a load-by-load basis, the Board can require that each unsorted net tow be placed into the hold to account for EFH, salmon, rockfish and other bycatch. Observers can also be required at any plant processing Adak pollock to insure that the entire net haul is observed at the plant. Prohibition of tendering in this area will assure that the entire haul is plant observed.

State-enforced pelagic trawling over coral and rough bottom types in the Aleutian Islands will keep nets from contacting the sensitive bottom habitat. This is to comply with the Council's intent to protect sensitive EFH in the Aleutian Islands.

Section 108 of the M-S Act requires that for the first five years up to 25% of the total available pollock harvest in the Aleutians can be taken by vessels less than 60' LOA. This Congressional intent may best be met with pollock harvested in state waters to provide for development of the small boat Aleutian Islands pollock fishery.

Lastly, the Traditional Aleut Council of the Pribilof Island of St. George has requested a review and, if warranted, and expansion of the Steller sea lion protection measures to include 0 – 10 mile closure around the Dalnoi Point haulout. The Aleut community of Adak supports the Dalnoi Point haulout closure as a trade-off for the requested Board of Fisheries opening of state waters to commercial fishing adjacent to their community near two haulouts and in other critical habitat in state waters in the Aleutian Islands. Considering that the only three rookeries in the Central Aleutian Islands where SSL populations are not increasing are west of the 178° W longitude line, and that the June 2004 NMFS document on SSL indicates that pollock only account for 2.7% of the SSL prey in the Central Aleutians during the winter (December through April, 1990-1998). Since the Board's proposed action is also a winter event, the impact on pollock would be small. Additionally, Atka mackerel, which by itself accounts for 65% of prey selection, is a high-energy, abundant prey available year round in the central Aleutians. Therefore it is unlikely that the proposed fishery near Adak would impact SSL, even if the 2001 BiOp presumption of nutrition and fishery activity were correct.